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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,788	03/08/2001	Naoto Akiyama	Q63269	4071

7590 10/19/2004

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Washington, DC 20037

EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/800,788

Applicant(s)

AKIYAMA ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 9-12.

Claim(s) rejected: 1-8, 36 and 39.

Claim(s) withdrawn from consideration: 13-35, 37, 38, 40 and 42.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Angela D. Sykes

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER

Frances P. Oropeza
Art Unit 3762

10/14/04

Continuation of 2. NOTE:

The Applicant's arguments filed 9/28/04 have been fully considered, but they are not convincing.

The Applicant asserts Lyster et al. do not teach or suggest the claimed "means for reversing polarity of the voltage outputted to the output electrode, and outputting at least first phase waveform and second phase waveform to the output electrode", because Lyster et al. utilize a conventional H-bridge circuit formed by four switches to reverse the polarity of the output waveform and the instant invention utilizes three switches for reversing the polarity of the output waveform, hence the rejection position is incorrect since the cited references does not disclose the same or equivalent structure. The Examiner disagrees. The output control means taught by Lyster performs the identical in function to the instant invention, reversing polarity of the voltage outputted to the output electrode and outputting at least a first phase waveform and a second phase waveform to the output electrode. The output control means taught by Lyster is not excluded by any explicit definition provided in the specification for an equivalent. Finally, the output means taught by Lyster is deemed an equivalent of the means plus function limitation of the instant invention as Lyster converts DC voltage to a bipolar DC voltage waveform (figure 5) and outputs it to an output electrodes (16).

It is noted that while the instant invention does not claim three switches, the claims are open ended and Lyster teaches the use of at least three switches in his output control means, hence Lyster discloses three switches.

The rejection stands for the reasons of record and the discussion above.

gpo
10/14/04